

HF 2443 (LSB 5171HZ (29) 86)

~~HOUSE FILE 2443~~

~~BY COMMITTEE ON WAYS AND MEANS~~

~~(SUCCESSOR TO HF 2412)~~

~~(SUCCESSOR TO HSB 612)~~

## **~~A BILL FOR~~**

~~An Act relating to the programs and duties of the economic development authority by making changes relative to the use of life cycle cost analyses, by making technical changes related to the high quality jobs program, by making changes relative to authority assistance for certain federal small business programs, by allowing counties, cities, and the authority to amend certain economic development enterprise zones agreements, and by making changes to the historic preservation and cultural and entertainment district tax credit, including transferring administrative oversight of the tax credit from the department of cultural affairs to the economic development authority, and including effective date provisions.~~

RELATING TO THE PROGRAMS AND DUTIES OF THE ECONOMIC DEVELOPMENT AUTHORITY BY MAKING CHANGES RELATIVE TO THE USE OF LIFE CYCLE COST ANALYSES, BY MAKING TECHNICAL CHANGES RELATED TO THE HIGH QUALITY JOBS PROGRAM, BY MAKING CHANGES RELATIVE TO AUTHORITY ASSISTANCE FOR CERTAIN FEDERAL SMALL BUSINESS PROGRAMS, BY ALLOWING COUNTIES, CITIES, AND THE AUTHORITY TO AMEND CERTAIN ECONOMIC DEVELOPMENT ENTERPRISE ZONES AGREEMENTS, AND BY MAKING CHANGES TO THE HISTORIC PRESERVATION AND CULTURAL AND ENTERTAINMENT DISTRICT TAX CREDIT, INCLUDING TRANSFERRING ADMINISTRATIVE OVERSIGHT OF THE TAX CREDIT FROM THE DEPARTMENT OF CULTURAL AFFAIRS TO THE ECONOMIC DEVELOPMENT AUTHORITY, AND INCLUDING EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I  
LIFE CYCLE COST ANALYSES

Section 1. Section 470.1, Code 2016, is amended by adding the following new subsection:

NEW SUBSECTION. 01. "Addition" means new construction equal to or greater than twenty thousand square feet of usable floor space that is heated or cooled by a mechanical or electrical system and is joined to an existing facility.

Sec. 2. Section 470.1, subsections 6, 7, and 10, Code 2016, are amended to read as follows:

6. "Facility" means a building having twenty thousand square feet or more of usable floor space that is heated or cooled by a mechanical or electrical system ~~or any building, system, or physical operation which consumes more than forty thousand British thermal units (BTUs) per square foot per year.~~

7. "Initial cost" means the moneys required for the capital construction or renovation of a facility or the construction of an addition.

10. "Renovation" means a project where ~~additions or alterations, that are not additions, to an existing facility~~ exceed fifty percent of the value of a facility and will affect an energy system.

Sec. 3. Section 470.2, Code 2016, is amended to read as follows:

**470.2 Policy ---- analysis required.**

The general assembly declares that energy management is of primary importance in the design of publicly owned facilities. ~~Commencing January 1, 1980~~ On or after the effective date of this division of this Act, a public agency responsible for the construction or renovation of a facility or the construction of an addition shall, in a design begun after that date, include as a design criterion the requirement that a life cycle cost analysis be conducted for the facility. The objectives of the life cycle cost analysis are to optimize energy efficiency at an acceptable life cycle cost. The life cycle cost analysis shall meet the requirements of section 470.3.

Sec. 4. Section 470.3, subsection 2, Code 2016, is amended to read as follows:

2. A public agency or a person preparing a life cycle cost analysis for a public agency shall ~~consider the methods and analytical models provided by the authority and available through the commissioner, which are suited to the purpose for which the project is intended. Within sixty days of final selection of a design architect or engineer, a public agency, which is also a state agency under section 7D.34, shall notify the commissioner and the authority of the methodology to be used to perform the life cycle cost analysis, on forms provided by the authority~~ use the methodology set forth in the guidelines established, by rule, by the commissioner.

Sec. 5. Section 470.4, Code 2016, is amended to read as follows:

**470.4 Analysis approved.**

The life cycle cost analysis shall be approved by the public agency before contracts for the construction or renovation of a facility or the construction of an addition are let. A public agency may accept a facility design and shall meet the requirements of this chapter if the design meets the operational requirements of the agency and provides the optimum life cycle cost. The public agency shall retain a copy of the life cycle cost analysis and a statement justifying a design decision both of which shall be available for public inspection at reasonable hours.

Sec. 6. Section 470.6, Code 2016, is amended to read as follows:

**470.6 Restriction on use of public funds.**

Public funds shall not be used for the construction or renovation of a facility or the construction of an addition unless the design for the work is prepared in accordance with this chapter and the actual construction or renovation of the facility or the construction of the addition meets the requirements of the design.

Sec. 7. Section 470.7, Code 2016, is amended to read as follows:

**470.7 Life cycle cost analysis ---- approval.**

1. The public agency responsible for the new construction or renovation of a public facility or the construction of an addition to a public facility shall submit a copy of the life cycle cost analysis for review by the commissioner who shall consult with the authority. If the public agency is also a state agency under section 7D.34, comments by the authority or the commissioner, including any recommendation for changes in the analysis, shall, within thirty days of receipt of the analysis, be forwarded in writing to the public agency. If either the authority or the commissioner disagrees with any aspects of the life cycle cost analysis, the public agency affected shall timely respond in writing to the commissioner and the authority. The response shall indicate whether the agency intends to implement the recommendations and, if the agency does not intend to implement them, the public agency shall present its reasons. The reasons may include but are not limited to a description of the purpose of the facility or renovation, preservation of historical architectural features, architectural and site considerations, and health and safety concerns.

2. Within thirty days of receipt of the response of the public agency affected, the authority, the commissioner, or both, shall notify in writing the public agency affected of the authority's, the commissioner's, or both's agreement or disagreement with the response. In the event of a disagreement, the authority, the commissioner, or both, shall at the same time transmit the notification of disagreement with response and related papers to the executive council for resolution pursuant to section 7D.34. The life cycle cost analysis process, including submittal and approval, and implementation exemption requests pursuant to section 470.8, shall be completed prior to the letting of contracts for the construction or renovation of a facility or the construction of an addition.

Sec. 8. Section 470.8, Code 2016, is amended to read as follows:

**470.8 Life cycle cost analysis ---- implementation and exemptions.**

1. The public agency responsible for the new construction or renovation of a public facility or the construction of an addition shall implement the recommendations of the life cycle cost analysis.

2. The commissioner shall adopt rules for the implementation and administration of the life cycle cost analysis. The commissioner, in consultation with the director, shall, by rule, develop criteria to exempt facilities from the implementation requirements of this section. Using the criteria, the commissioner, in cooperation with the director, shall exempt facilities on a ~~case by-~~ case case-by-case basis. Factors to be considered when developing the exemption criteria shall include, but not be limited to, a description of the purpose of the facility or renovation, the preservation of historical architectural features, site considerations, and health and safety concerns. The commissioner and the director shall grant or deny a request for exemption from the requirements of this section within thirty days of receipt of the request.

Sec. 9. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION II

HIGH QUALITY JOBS PROGRAM ---- DEFINITION

Sec. 10. Section 15.333, subsection 2, unnumbered paragraph 1, Code 2016, is amended to read as follows:

For purposes of this section, "~~new investment directly related to new jobs created by the project~~ investment" means the cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, the purchase price of real property and any buildings and structures located on the real property, and the cost of improvements made to real property which is used in the operation of the eligible business. "~~New investment directly related to new jobs created by the project~~ investment" also means the annual base rent paid to

a *third-party developer* by an eligible business for a period not to exceed ten years, provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the eligible business. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. If, however, within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which tax credit was claimed under this section, the tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

Sec. 11. Section 15.333A, subsection 2, unnumbered paragraph 1, Code 2016, is amended to read as follows:

For purposes of this section, "~~new investment directly related to new jobs created by the project~~ investment" means the cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, the purchase price of real property and any buildings and structures located on the real property, and the cost of improvements made to real property which is used in the operation of the eligible business. "~~New investment directly related to new jobs created by the project~~ investment" also means the annual base rent paid to a *third-party developer* by an eligible business for a period not to exceed ten years, provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the eligible business. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. If, however, within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which tax credit was claimed under this section, the tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

#### DIVISION III

#### FEDERAL SMALL BUSINESS PROGRAMS ---- AUTHORITY ASSISTANCE

Sec. 12. Section 15.411, subsection 4, paragraphs a, b, and c, Code 2016, are amended to read as follows:

a. (1) The authority shall establish and administer an outreach program for purposes of assisting businesses with applications to the federal small business innovation research and small business technology transfer programs.

(2) The goals of this assistance are to increase the number of successful ~~phase II small business innovation research~~ grant and contract proposals in the state, increase the amount of such grant and contract funds awarded in the state, stimulate subsequent investment by industry, venture capital, and other sources, and encourage businesses to commercialize promising technologies.

b. (1) In administering the program, the authority may provide technical and financial assistance to businesses. Financial assistance provided pursuant to this subsection ~~shall~~ may be awarded to a business in an amount not to exceed ~~twenty-five~~ one hundred thousand dollars ~~to for any single business~~ individual federal award under this subsection.

(2) The authority may require successful applicants to repay the amount of financial assistance received, but shall not require unsuccessful applicants to repay such assistance. Any moneys repaid pursuant to this subsection may be used to provide financial assistance to other applicants.

c. The authority may also provide financial assistance for purposes of helping businesses meet the ~~matching funds~~ requirements of the federal small business

innovation research and small business technology transfer programs.

DIVISION IV

ENTERPRISE ZONES

Sec. 13. 2014 Iowa Acts, chapter 1130, section 43, subsection 1, is amended to read as follows:

1. On or after the effective date of this division of this Act, a city or county shall not create an enterprise zone under chapter 15E, division XVIII, or enter into a new agreement ~~or amend an existing agreement~~ under chapter 15E, division XVIII. A city or county and the economic development authority, with the approval of the economic development authority board, may amend an agreement for compliance reasons if the amendment does not increase the amount of incentives awarded under the agreement.

DIVISION V

HISTORIC PRESERVATION AND CULTURAL AND ENTERTAINMENT DISTRICT TAX CREDIT

Sec. 14. Section 404A.1, Code 2016, is amended by adding the following new subsection:

NEW SUBSECTION. 01. "Authority" means the economic development authority created in section 15.105.

Sec. 15. Section 404A.2, subsection 1, Code 2016, is amended to read as follows:

1. An eligible taxpayer who has entered into an agreement under section 404A.3, subsection 3, is eligible to receive a historic preservation and cultural and entertainment district tax credit in an amount equal to twenty-five percent of the qualified rehabilitation expenditures of a qualified rehabilitation project that are specified in the agreement. Notwithstanding any other provision of this chapter or any provision in the agreement to the contrary, the amount of the tax credits shall not exceed twenty-five percent of the final qualified rehabilitation expenditures verified by the ~~department~~ authority pursuant to section 404A.3, subsection 5, paragraph "c".

Sec. 16. Section 404A.2, Code 2016, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. a. Tax credit certificates issued under section 404A.3 may be transferred to any person. Within ninety days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue. However, tax credit certificate amounts of less than the minimum amount established by rule by the department of revenue shall not be transferable.

b. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared on the transferred tax credit certificate.

c. A tax credit shall not be claimed by a transferee under this section until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V.

Sec. 17. Section 404A.2, subsection 3, Code 2016, is amended to read as

follows:

3. ~~Any~~ For a tax credit claimed by an eligible taxpayer or a transferee for qualified rehabilitation projects with agreements entered into on or after July 1, 2014, any credit in excess of the taxpayer's tax liability for the tax year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following year may be refunded or, at the taxpayer's election, credited to the taxpayer's tax liability for the following five years or until depleted, whichever is earlier. - A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit. As used in this subsection, "taxpayer" includes an eligible taxpayer or a person transferred a tax credit certificate pursuant to subsection 2A.

Sec. 18. Section 404A.2, subsection 4, paragraph c, Code 2016, is amended to read as follows:

c. The tax credit certificate, unless rescinded by the ~~department~~ authority, shall be accepted by the department of revenue as payment for taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, subject to any conditions or restrictions placed by the ~~department~~ authority or the department of revenue upon the face of the tax credit certificate and subject to the limitations of this program.

Sec. 19. Section 404A.2, subsection 5, Code 2016, is amended by striking the subsection.

Sec. 20. Section 404A.3, subsections 1 and 2, Code 2016, are amended to read as follows:

1. *Application and fees.*

a. An eligible taxpayer seeking historic preservation and cultural and entertainment district tax credits provided in section 404A.2 shall make application to the ~~department~~ authority in the manner prescribed by the ~~department~~ authority.

b. The ~~department~~ authority may accept applications on a continuous basis or may accept applications, or one or more components of an application, during one or more application periods.

c. The application shall include any information deemed necessary by the ~~authority~~, in consultation with the department, to evaluate the eligibility under the program of the applicant and the rehabilitation project, the amount of projected qualified rehabilitation expenditures of a rehabilitation project, and the amount and source of all funding for a rehabilitation project. An applicant shall have the burden of proof to demonstrate to the ~~department~~ authority that the applicant is an eligible taxpayer and the project is a qualified rehabilitation project under the program.

d. The ~~department~~ authority may establish criteria for the use of electronic or other alternative filing or submission methods for any application, document, or payment requested or required under this program. Such criteria may provide for the acceptance of a signature in a form other than the handwriting of a person.

e. (1) The ~~department~~ authority may charge application and other fees to eligible taxpayers who apply to participate in the program. The amount of such fees shall be determined based on the costs of the ~~authority~~ and the department associated with administering the program.

(2) Fees collected by the ~~department~~ authority pursuant to this paragraph shall be deposited with the ~~department~~ pursuant to authority notwithstanding section 303.9, subsection 1.

(3) A portion of the fees collected shall be directed by the authority to the department.

2. *Registration.*

a. Upon review of the application by the authority, the ~~department~~ authority may register a qualified rehabilitation project under the program. If

the ~~department authority~~ registers the project, the ~~department authority~~ shall make a preliminary determination as to the amount of tax credits for which the project qualifies.

b. After registering the qualified rehabilitation project, the ~~department authority~~ shall notify the eligible taxpayer of successful registration under the program within a period of time established by the authority by rule. The notification shall include the amount of tax credits under section 404A.2 for which the qualified rehabilitation project has received a tentative award and a statement that the amount is a preliminary determination only.

Sec. 21. Section 404A.3, subsection 3, paragraph a, Code 2016, is amended to read as follows:

a. Upon successful registration of a qualified rehabilitation project, the eligible taxpayer shall enter into an agreement with the ~~department authority~~ for the successful completion of all requirements of the program.

Sec. 22. Section 404A.3, subsection 3, paragraph b, ~~subparagraph~~subparagraphs (1) and (2), Code 2016, ~~is~~are amended to read as follows:

(1) The amount of the tax credit award. An eligible taxpayer has no right to receive a tax credit certificate or claim a tax credit until all requirements of the agreement and subsections 4 and 5 have been satisfied. The amount of tax credit included on a tax credit certificate issued under this section shall be contingent upon verification by the ~~department authority~~ of the amount of final qualified rehabilitation expenditures.

(2) The rehabilitation work to be performed. An eligible taxpayer shall perform the rehabilitation work consistent with the United States secretary of the interior's standards for rehabilitation, as determined by the department.

Sec. 23. Section 404A.3, subsection 4, paragraphs a and b, Code 2016, are amended to read as follows:

a. The eligible taxpayer shall, for the length of the agreement, annually certify to the ~~department authority~~ compliance with the requirements of the agreement. The certification shall be made at such time as the ~~department authority~~ shall determine in the agreement.

b. The eligible taxpayer shall have the burden of proof to demonstrate to the ~~department authority~~ that all requirements of the agreement are satisfied. The taxpayer shall notify the ~~department authority~~ in a timely manner of any changes in the qualification of the rehabilitation project or in the eligibility of the taxpayer to claim the tax credit provided under this chapter, or of any other change that may have a negative impact on the eligible taxpayer's ability to successfully complete any requirement under the agreement.

Sec. 24. Section 404A.3, subsection 4, paragraph c, subparagraphs (1) and (2), Code 2016, are amended to read as follows:

(1) If after entering into the agreement but before a tax credit certificate is issued, the eligible taxpayer or the qualified rehabilitation project no longer meets the requirements of the agreement, the ~~department authority~~ may find the taxpayer in default under the agreement and may revoke the tax credit award.

(2) If an eligible taxpayer obtains a tax credit certificate from the ~~department authority~~ by way of a prohibited activity, the eligible taxpayer and any transferee shall be jointly and severally liable to the state for the amount of the tax credits so issued, interest and penalties allowed under chapter 422, and reasonable attorney fees and litigation costs, except that the liability of the transferee shall not exceed an amount equal to the amount of the tax credits acquired by the transferee. The department of revenue, upon notification or discovery that a tax credit certificate was issued to an eligible taxpayer by way of a prohibited activity, shall revoke any outstanding tax credit and seek repayment from the eligible taxpayer of the value of any tax credit already claimed, and the failure to make such a repayment may be treated by the department of revenue in the same manner as a failure to pay the tax shown due or required to be shown

due with the filing of a return or deposit form. A qualifying transferee is not subject to the liability, revocation, and repayment imposed under this subparagraph ~~if the transferee had actual notice, prior to transfer of the tax credit, of misrepresentation, fraud, or any unlawful act or omission by the eligible taxpayer.~~

Sec. 25. Section 404A.3, subsection 4, paragraph c, subparagraph (3), Code 2016, is amended by ~~striking the subparagraph and inserting in lieu thereof the following:~~

~~— (3) For the purposes of this paragraph, "prohibited activity" means a breach or default under the agreement with the authority, the violation of any warranty provided by the eligible taxpayer to the authority or the department of revenue, the claiming of a tax credit issued under this chapter for expenditures that are not qualified rehabilitation expenditures, the violation of any requirements of this chapter or rules adopted pursuant to this chapter, misrepresentation, fraud, or any other unlawful act or omission~~ adding the following new subparagraph division:

NEW SUBPARAGRAPH DIVISION. (0a) "Control" means when a person, directly or indirectly or acting through or together with one or more persons, satisfies any of the following:

(i) Owns, controls, or has the power to vote fifty percent or more of any class of voting securities or voting membership interests of another person.

(ii) Controls, in any manner, the election of a majority of the directors, managers, trustees, or other persons exercising similar functions of another person.

(iii) Has the power to exercise a controlling influence over the management or policies of another person.

Sec. 26. Section 404A.3, subsection 4, paragraph c, subparagraph (3), subparagraph division (b), unnumbered paragraph 1, Code 2016, is amended to read as follows:

"Qualifying transferee" means a transferee who acquires a tax credit certificate issued under this chapter for value, in good faith, without ~~actual express~~ or ~~constructive~~ implied notice of a prohibited activity of the eligible taxpayer who was originally issued the tax credit, and without ~~actual express~~ or ~~constructive~~ implied notice of any other claim to or defense against the tax credit, and which transferee is not associated with the eligible taxpayer by being one or more of the following:

Sec. 27. Section 404A.3, subsection 4, paragraph c, subparagraph (3), subparagraph division (b), subparagraph subdivision (i), Code 2016, is amended to read as follows:

(i) An owner, member, shareholder, or partner of the eligible taxpayer who directly or indirectly owns ~~or~~ and controls, in whole or in part, the eligible taxpayer.

Sec. 28. Section 404A.3, subsections 5, 6, and 7, Code 2016, are amended to read as follows:

5. Examination ~~and audit~~ of project.

a. An eligible taxpayer shall engage a certified public accountant authorized to practice in this state to conduct an examination of the project in accordance with the American institute of certified public accountants' statements on standards for attestation engagements. Upon completion of the qualified rehabilitation project, the eligible taxpayer shall submit the examination to the ~~department~~ authority, along with a statement of the amount of final qualified rehabilitation expenditures and any other information deemed necessary by the ~~department or the department of revenue~~ authority in order to verify that all requirements of the agreement, this chapter, and all rules adopted pursuant to this chapter have been satisfied. The authority shall adopt rules governing examinations required under this subsection.

b. Notwithstanding paragraph "a", the ~~department~~ authority may waive the



examination requirement in this subsection if all the following requirements are satisfied:

(1) The final qualified rehabilitation expenditures of the qualified rehabilitation project, as verified by the ~~department authority~~, do not exceed one hundred thousand dollars.

(2) The qualified rehabilitation project is funded exclusively by private funding sources.

c. Upon review of the examination, if applicable, the ~~department authority~~ shall verify that all requirements of the agreement, this chapter, and all rules adopted pursuant to this chapter have been satisfied and shall verify the amount of final qualified rehabilitation expenditures. ~~After consultation with the department of revenue, the department may issue a tax credit certificate to the eligible taxpayer stating the amount of tax credit under section 404A.2 the eligible taxpayer may claim. The department~~ If the authority determines that all requirements of the agreement, this chapter, and all rules adopted pursuant to this chapter have been satisfied and it has verified the amount of final qualified rehabilitation expenditures, the authority shall issue ~~the a~~ tax credit certificate ~~not later than sixty days following the completion of the examination review, if applicable, and the verifications and consultation required under this paragraph to the eligible taxpayer stating the amount of the credit under section 404A.2 the eligible taxpayer may claim.~~

6. Waivers. Notwithstanding any other provision of this chapter to the contrary, the ~~department authority~~ may waive the requirements of subsections 1 through 4, except the requirements relating to allowable cost overruns in subsection 3, paragraph "b", subparagraph (3), and the requirements in subsection 4, paragraphs "b" and "c", for qualified rehabilitation projects with final qualified rehabilitation expenditures of seven hundred fifty thousand dollars or less and may establish by rule different application, registration, agreement, compliance, or other requirements relating to such projects.

7. Amendments. The ~~department authority~~ may for good cause amend an agreement.

Sec. ~~27-29.~~ Section 404A.4, subsection 1, paragraph a, Code 2016, is amended to read as follows:

a. Except as provided in subsections 2 and 3, the ~~department authority~~ shall not award in any one fiscal year an amount of tax credits provided in section 404A.2 in excess of forty-five million dollars.

Sec. ~~28-30.~~ Section 404A.4, subsection 3, paragraph a, Code 2016, is amended to read as follows:

a. If during the fiscal year beginning July 1, 2016, or any fiscal year thereafter, the ~~department authority~~ awards an amount of tax credits that is less than the maximum aggregate tax credit award limit specified in subsection 1, the difference between the amount so awarded and the amount specified in subsection 1, not to exceed ten percent of the amount specified in subsection 1, may be carried forward to the succeeding fiscal year and awarded during that fiscal year.

Sec. ~~29-31.~~ Section 404A.5, subsections 1 and 3, Code 2016, are amended to read as follows:

1. The ~~department authority~~, in consultation with the department of revenue, shall be responsible for keeping the general assembly and the legislative services agency informed on the overall economic impact to the state of qualified rehabilitation projects.

3. The ~~department authority~~, to the extent it is able, shall provide recommendations on whether the limit on tax credits should be changed, the need for a broader or more restrictive definition of qualified rehabilitation project, and other adjustments to the tax credits under this chapter.

Sec. ~~30-32.~~ Section 404A.6, Code 2016, is amended to read as follows:

**404A.6 Rules.**

The authority, department, and the department of revenue shall each adopt

rules ~~to jointly administer~~ as necessary for the administration of this chapter.

Sec. ~~31.~~33. IMPLEMENTATION ---- COSTS. For the fiscal year beginning July 1, 2016, the department of revenue and the economic development authority shall agree on the total cost of implementing this division of this Act, and the economic development authority shall pay those costs from fees charged by and deposited with the authority pursuant to section 404A.3, subsection 1, paragraph "e". If the department of revenue and the economic development authority fail to come to an agreement, the department of management shall determine the costs to be paid by the economic development authority under this subsection.

Sec. 34. TRANSITION PROVISIONS. The department of cultural affairs shall cooperate with the economic development authority to ensure the effective transition of powers, duties, and funds from the department to the authority in implementing this division of this Act.

Sec. 35. EFFECTIVE DATE. This division of this Act takes effect August 15, 2016.

Sec. 36. APPLICABILITY.

1. Except as provided in subsection 2, this division of this Act applies to qualified rehabilitation projects registered on or after ~~July 1,~~August 15, 2016.

2. The section of this division of this Act amending section 404A.2, subsection 3, applies retroactively to agreements entered into by an eligible taxpayer on or after July 1, 2014.

**EXPLANATION**

~~The inclusion of this explanation does not constitute agreement with~~

LINDA UPMEYER

Speaker of the House

PAM JOCHUM

President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2443, Eighty-sixth General Assembly.

CARMINE BOAL

Chief Clerk of the House

Approved \_\_\_\_\_, 2016

Compare

TERRY E. BRANSTAD

~~the explanation's substance by the members of the general assembly.~~

~~— This bill relates to the programs and duties of the economic development authority (authority) by modifying life cycle cost analysis provisions relating to public facilities, making technical changes pertaining to the high quality jobs program, modifying economic development authority assistance provisions under the business outreach program, modifying provisions concerning enterprise zones, and transferring certain duties to the authority under the historic preservation and cultural entertainment district tax credit program.~~

~~— Division I of the bill modifies provisions relating to the life cycle analysis required of certain public facilities. The division adds a definition of "addition" and modifies the definitions of "facility" and "renovation" and requires a public agency responsible for the construction or renovation of a facility or the construction of an addition to a facility to include the performance of a life cycle cost analysis as a design criterion on or after the effective date of the division. The division requires a public agency or person preparing a life cycle cost analysis for a public agency to use methodology established, by rule, by the state building code commissioner, rather than methods and analytical models provided by the authority. The division requires the commissioner to also adopt rules for the implementation and adoption of the life cycle cost analysis. The division takes effect upon enactment.~~

~~— Division II of the bill makes technical changes related to the definition of a "new investment" under the high quality jobs program.~~

~~— Division III of the bill relates to the authority's business outreach program, which provides technical and financial assistance to businesses applying for federal small business innovation research and small business technology transfer program grants and contracts.~~

~~— Under current law, the authority is allowed to provide financial assistance of up to \$25,000 to any single business and is allowed to provide such financial assistance as matching funds to allow a business to qualify for either federal program. The division provides that the authority may provide financial assistance of up to \$100,000 to a business for any individual federal award under those programs and that the financial assistance may be used for any purpose to allow a business to meet federal program requirements.~~

~~— Division IV of the bill relates to enterprise zones. The division allows a city or county and the authority for compliance reasons to amend agreements made under the enterprise zone program as long as the amendments do not increase the amount of incentives awarded and the economic development authority board approves.~~

~~— Division V of the bill relates to the historic preservation and cultural and entertainment district tax credit by transferring administrative oversight of the tax credit from the department of cultural affairs to the authority. In relation to the tax credit, for qualified rehabilitation projects with agreements entered into on or after July 1, 2014, the division allows a taxpayer to elect to receive a refund of any credit in excess of the taxpayer's liability or to credit the excess against the tax liability for the following five years or until depleted, whichever is earlier. Under current law, the credit is refundable with interest, but, in lieu of a refund, the excess may be credited against tax liability for the following year.~~

~~— Current law allows the state to recapture the amount of the tax credit, along with interest, penalties, attorney fees, and litigation costs, if the original holder of the tax credit certificate obtained the tax credit by way of a prohibited activity. The division strikes joint and several liability provisions under current~~

~~law, as applied to bona fide purchasers of such tax credits, but maintains liability for transferees with actual notice of misrepresentation, fraud, or unlawful acts or omissions by the original holder of the tax credit certificate prior to the transfer.~~

~~—The division makes additional changes related to definitions, to taxpayer notifications, to rehabilitation work standards, and to verification and credit issuance processes. Under the division, the department of cultural affairs will receive a portion of application and program fees and is required to consult with the authority on certain historic preservation and cultural and entertainment district tax credit processes.~~

[Governor](#)

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Description	
Document 2 ID	Modified.doc
Description	
Rendering set	No Images

Legend:	
<u>Insertion</u>	
<del>Deletion</del>	
<del>Moved from</del>	
<u>Moved to</u>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	34
Deletions	34
Moved from	0
Moved to	0
Style change	0
Format changed	6
Total changes	74